SELECT COMMITTEE INTO ELDER ABUSE

INQUIRY INTO ELDER ABUSE

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 21 MAY 2018

SESSION TWO

Members

Hon Nick Goiran, MLC (Chair)
Hon Alison Xamon, MLC (Deputy Chair)
Hon Matthew Swinbourn, MLC
Hon Tjorn Sibma, MLC

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Hearing commenced at 11.03 am

Ms JUNE LOWE
Chair, GLBTI Rights in Ageing Inc, sworn and examined:

The CHAIRMAN: This is the fourteenth public hearing from the Select Committee into Elder Abuse, and we are meeting with GLBTI Rights in Ageing Inc. Before we get started I must ask you whether you would like to take the oath or affirmation which is just in front of you, and once you have selected that just read the contents.

[Witness took the affirmation.]

The CHAIRMAN: You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Ms LOWE: Yes.

The CHAIRMAN: The proceedings that are taking place this morning are being recorded by Hansard and broadcast on the internet. Please note that this broadcast also will be available for viewing online after this hearing. Please advise the committee if you object to the broadcast being made available in this way. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them, ensuring you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

We have a number of questions for you this morning, but before we do so would you like to make an opening statement to the committee?

Ms LOWE: Yes. I would just like to, I guess, place the context that LGBTI elders are of course subject to the same risks of elder abuse as all elders, but that those risks tend to be amplified. They have a number of heightened risk factors which the ALRC has mentioned—I am presuming that you have been referring to that as a source—and also heightened barriers to seeking assistance. The whole situation, basically, is not helped by mainstream responses, which are generally to not see the problem and to not believe that the problem exists. They do not think there is anything different, and there is therefore a tendency to negate or turn away from investigating or taking action. Lastly, there is a difficulty in accessing evidence as well, which I think is also a prevalent problem in elder abuse in general. I think there is an urgent need for us as a society, really, to understand that homophobic, lesophobic and transphobic abuse actually is a form of elder abuse, and that the responses of family members, service providers and others diminish their rights and dignity as they age. It is more prevalent, of course, as people lose their capacity for self-determination.

The CHAIRMAN: Thank you very much. It has been the practice of the committee to take witnesses through the 10 terms of reference that the committee has been given by the Legislative Council, so I will just start with the first one, which is for the committee to determine an appropriate definition

of elder abuse. At page 2 of your submission, you refer to a definition of elder abuse being extended to include systemic abuse perpetrated by organisational structures and cultures. Can you explain this to the committee?

Ms LOWE: I think that it is tricky in a heterosexual environment to sometimes make this clear, because people are acting quite obliviously, really. This is clear to me most days of the week, in fact, especially when I am in a training room. What happens is that our laws, policies and organisations are set up with the hetero norm, which is an assumption where it is just naturally assumed that everybody is heterosexual and gender binary. It is part of the air we breathe; it is what we are in. As such, there is not an intentional harm, but it tends to be an exclusionary thing, because everything about the structures does not mention anybody that is not—we need to expand what we think of as normal. Governments and parliaments around the country are embarking on this now, and extending—the marriage debate was a classic, obviously, and that is a very obvious one, but it is often much more subtle. There have been a lot of legal changes, where the definitions of families have been extended and so on—those sorts of things. Sometimes it is in the language, but it is often also in the case of care provision, the way things are set up. Things around gender, where we are completely fixed on having two genders, which does not suit everybody, and you are really out on a limb, and you have to argue your case if you do not fit neatly into one box or another, especially if you decide you are in neither box, and everybody is flummoxed and running around not knowing what to do next. We have a way to go really in getting people's heads around: what has been assumed as normal for a very long time is actually a slice of normal, and that normal is much more than that.

[11.10 am]

The CHAIRMAN: Just in respect of the definition of elder abuse, the majority of witnesses have referred the committee to the definition by the World Health Organization, and this has been recently taken up by the Alliance for the Prevention of Elder Abuse in Western Australia. The definition that they provide is a single or repeated act, or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person. I notice that that definition talks about this occurring within any relationship, and to the extent that it is grouping people, it is talking about older persons. Is that definition sufficient or would you like to see something different?

Ms LOWE: I would say that there is also a relationship with a care provider, which is an organisation; there is a relationship with the state; there is a relationship with your hospitals or your health providers. Those are relationships too, and the policies that are embedded in the way that things are run can have exactly those same effects, albeit non-intentionally. If that were expressly extended to, say, relationships with natural persons and organisations, then that would encompass all activities.

Hon ALISON XAMON: It says relationships of trust, without narrowing that down to being either organisational or personal. Would you think that that is potentially broad enough to be able to incorporate the sorts of concerns —

Ms LOWE: I think the difficulty with being not explicit is that there is a tendency to default to the position that people have generally understood, and that is why when we say to organisations when they ask what does it mean to be LGBTI inclusive, we say that you have to actually specifically state it. It is not enough for you in your mission statement to say we love everybody, we treat everybody the same, which is the kind of motherhood statements that are out there. Unless you specifically say what you are including, the default position of LGBTI people would be that that statement does not include them, because it never has done before. I think, especially if we are introducing new

concepts, it is worth being explicit about it because for sure it could be read as being inclusive, but it will not be unless it is stated so, because of the way the human brain operates, really.

The CHAIRMAN: Let us move to the second term of reference, which is looking for the committee to identify the prevalence of elder abuse in Western Australia. You may be aware that the federal government has commissioned research in this area. The committee would be keen for you to indicate to us if you know of any research that identifies the barriers that older LGBTI people face when reporting elder abuse.

Ms LOWE: Whenever I go to Melbourne I feel that the air is different, apart from it being colder. It is a much more inclusive place. They have moved probably several years ahead of Western Australia in terms of LGBTI inclusivity and inclusivity in general. I draw very heavily in terms of research from my colleague Catherine Barrett, whose documents I tabled today.

[11.20 am]

I would say that any research that is done in Victoria you could easily say would be happening in WA and that WA you would expect to be a less exclusive place than Victoria in general. That is because the influences are different and let us say a little bit more progressive at the moment over there. Could I state also that the Tango document is actually confidential at the moment because that has not tabled to the committee that she is working with. The sort of research that Catherine has been doing over the years makes it very clear that it is still absolutely prevalent. I get stories every day, too—not every day, but certainly every week—of situations where people have not been treated as they should be treated. Last month, this came to my attention, and it is very unusual that it came to my attention, about a trans woman who is in residential care because she is waiting for a hip replacement. She happens to be a member of GRAI, and her regular visitor was also another trans woman who is also a member of GRAI. Her visitor and friend called me and said, "June, something terrible happened this week. The person who was bathing my friend started berating her and telling her it was against the Bible for her to be a trans woman, and this is while she is in the vulnerable position of being bathed." My response was to write to the care provider and say, "Your client has got every right to report this; it is in breach of this, that and the other thing; and demand a written and verbal apology; and let us know what happened." As it turns out, the care providers were very responsive. They did issue an apology, and I arranged a meeting with them and they were at great pains to tell me all the things that they have done. However, I think it is extremely unusual for that sort of thing to be reported—extremely unusual.

The same barriers that occur to all elders are present. You are afraid of exacerbating the situation. You are relying on people to support you when you are vulnerable. If you are in a care situation, you feel very vulnerable to them if you complain—it could get a lot worse. But also the key thing for LGBTI elders is that a lot of it is internalised as normal. It is kind of, "Oh, yeah, that is the world." So quite often people do not acknowledge harm and distress because that is part of what they are used to on a daily basis, especially trans people—they get regular abuse. If I go out for coffee with my older trans person, I am thinking ahead where we are going, not because of selecting the best coffee, but where are we not likely to be stared at. So you have to sort of put these things in place all the time, and that becomes embedded in what you do as a general thing.

So you can imagine, then, in terms of elder abuse, it places another degree of difficulty. You have already got the same issues about not wanting to alienate family, which I guess is a prevalent one in all elder abuse within families; and in care provision you do not want to alienate your care providers, but also you are not anticipating that you are going to get a sympathetic response because your whole life has led to believe that that is not going to happen. So the barrier is extremely high. One of the things that Catherine noted when she started her research for the

committee that she is doing the Tango project for is that people came out with these stories sort of incidentally, in conversation afterwards, when she started talking to them about what she was doing. They know the stories are there, but they are not necessarily identified as harm for them; it is just internalised as what is going on in their world. But they are the sorts of things that if they happened to you, you would be outraged.

The CHAIRMAN: In respect to the four documents that have been provided to the committee this morning, you indicated that certainly at least one of them should remain confidential. Obviously it is a matter for the committee whether it will make any of these public or otherwise, but can you indicate again which of the four documents you would prefer remained private, or is that to apply to all four documents?

Ms LOWE: No, they are not private documents. They are all public documents. The report on the Tango project will be public very shortly; it is just that it has not been presented to her committee yet.

The CHAIRMAN: Okay. So the other three documents are all public?

Ms LOWE: All public, yes.

The CHAIRMAN: We will move to the third term of reference, which is forms of elder abuse. At page 4 of your submission you introduce the concept of posthumous rights in the context of elder abuse. Can you explain this concept to the committee in more detail?

Ms LOWE: Perhaps I could tell a story. I think stories are quite powerful ways for us to understand. This comes from one of the documents that I have submitted, which is one of the excerpts of research that was done by Catherine Barrett about building social connections for trans and gender elders. This is an interview with somebody whose pseudonym is Alison —

> *Another experience that many in the trans community have witnessed relates to attending the funeral of a trans person. I had only ever known this person as trans and they lived full time as trans and had transitioned some years earlier. The person's family did not accept their transition and the person was only referred to as their sex assigned at Perth and their christened name and not their preferred gender or name. They had not been dressed in the clothes of their preferred gender. And for that person, a trans woman, then to be dressed as a male, referenced as a male and for trans people to be ignored or disdained in terms of the funeral and the reception afterwards, is about the most distressing thing that I've ever done in my life and it's happened on multiple occasions. This was totally ignoring, hiding, denying the real life of this person and absolutely abhorrent for their true friends. The family did not want us there and we were shunned throughout. Unfortunately, this is not an isolated situation.*

Another transcript is from someone who pseudonym is Laura —

> *And there's a lot of trans girls who die here and they don't have all the documentation like Wills and what have you in place and so their families—I mean these are girls that have been living with it for years. Their families et cetera contacted and they do what they want, not what the deceased would have wanted.*

I have a personal story, too, in this regard. There was an older lesbian who we befriended in the last year of her life, and, when she passed away, we had lined up somebody to be the funeral celebrant, who had spoken with her before and got her life stories. When she died, her relative, her niece, who was going to inherit everything, incidentally, told that celebrant that did not want her telling the stories of her aunt's life, and especially nothing about the lesbian society. We were slightly amused that she thought there was such a society, but that being as it may, the niece produced a little

booklet about the life of her aunt, which completely expunged any reference to her partner of 50 years. It even made an allusion to a mysterious "Mr Right". I mean, it was complete fabrication. It is really outrageous. It is really hurtful for the people who are there who are her friends. It is an interesting thing: Do we have rights when we are dead? Do we have rights to our memory? Do we have rights to be represented for who we are, actually? I do not think that the law here has perhaps examined that as a possibility, but I could be wrong on that.

Hon ALISON XAMON: That is beyond the scope of the terms of reference of what this inquiry has been charged with being able to investigate, but I think it is useful for you to raise it as context in terms of the concerns.

Ms LOWE: I think it goes to the extent of the abuse.

Hon ALISON XAMON: One of the things that I was interested in seeing if we could unpick a bit is that particularly you would be aware that the members of the committee went to the 5th National Elder Abuse Conference earlier in the year, and there were a number of presentations that talked specifically around the vulnerabilities of the LGBTIQ community and elder abuse. I note there were almost two different types of streams of identifying sites of abuse. There was a big focus, for example, on what was happening in aged-care facilities and the lack of support for LGBTIQ people within aged-care facilities. The second one was elaborating further on individuals and how family would potentially respond to them. I note that it seemed to be particularly acute for older people who had come out or transitioned later in life. I am aware that we are looking at two different parts of this. Could you elaborate on either of them?

Ms LOWE: Yes, both, really. They have the same roots, the same history.

Hon ALISON XAMON: Of course.

Ms LOWE: One of the things that has been noted is that as the stigma towards LGBTI people has come down in recent years, and it undoubtedly has, and the legal system has supported that, the incidence of people coming out in later life has risen, and also that places them at far greater risk. One of the reasons they have not come out before is because they had a very pretty strong gut feeling they were not going to be accepted, and so they gain confidence with the broader acceptance but then have actually made themselves in fact more vulnerable to that. So coming out later in life does have a flip side. One of the stories that Catherine alludes to is actually a Perth story, where somebody is in an aged-care facility and is admitted as a man. It is actually an aged-care facility that is not identified as a Perth one but I happen to know the story—it was an one that we had been delivering training to this organisation. When this resident said, "I'm a woman, you know", the staff sort of immediately went into a bit of a "Oh, what are we going to do?" panic, and the manager said, "Well, actually, this is fine; this is what this person wants", and they supported the transition in an aged-care environment by creating a safe place for them. The family were furious, and they had to fend off the family, and they did that. That is actually unusual, because very often the family has—they should not have, but they very often have a very strong voice that overrides the preferences of the client. But the manager in this case said, "This resident is our client, and this is the person that we are here to serve and ensure that their needs are met." But they had to take a very strong stand with the family. So in some cases there is one irony in the fact that for many years we have assumed, and in fact one of the reasons GRAI was formed, was that we felt that care providers were homophobic and did not understand our needs, but this was actually a flip side where they very good. So there are huge possibilities in organisations to become champions, in fact. With families, there are issues of coming out late. To quote from the Tango project, "One gay man came out after his wife died." This is not uncommon, by the way. A lot of people come out after their spouse dies, because in the earlier days, there was what we call compulsory heterosexuality

and people often had not even heard of being gay or lesbian and get married because they think that is the thing to do, and they might have quite a loving relationship but they have never actually been heterosexual, or they might be bisexual. Anyway, one gay man came out after his wife died, and he was very sensitive to the needs of his children, who had religious objections to this.

[11.30 am]

It meant that it was practically impossible to take him out to any groups or to bring visitors to him. Prime Timers, which is an organisation in Perth—a social group for older gay and bisexual men—has a very high percentage of men who are married. So, it is really a common thing.

The other issue about elder abuse, which is a tricky one, is when people are not out at all, and then you have financial abuse. On one hand, you might say, "Well, you can't blame the family if they didn't know that you were a couple." But there is an example here where this gentleman describes how a week after the death of his long-term partner, he had to sell his home that they had shared. Although he was entitled to the rights of a same sex partnership, he did not have the money or emotional energy to assert those rights, and he was too distressed to take any remedies. That type of situation certainly arises, and if you have not been strongly out, the fear of being outed is really a tricky one for you to do that.

Hon ALISON XAMON: What do you consider would be a legal or government policy response to that sort of scenario?

Ms LOWE: A lot of that is around awareness. I remember speaking to somebody at the Office of the Public Advocate about a case where there was a contest for someone who was going for enduring power of attorney, and the partner was being challenged for this by a distant relative in Queensland or something. The judge was able to kind of see the situation, even though it was not stated. So a lot of it is about awareness. Some years ago, I gave a presentation to OPA about this, and it is really getting people to be aware and to be on the lookout. Look for a situation. Be aware that these situations are there. When I talked about systemic discrimination, that is the sort of thing I mean. People have not been looking and expecting. This is not just a neighbour. This is not just a friend. This is a partner who might not be saying they are a partner—in fact, they might explicitly be saying they are not. So it is having this general awareness and the general training out there for people who are in positions of power, such as tribunal judges and so on, that they are aware of this.

I noticed you talked about GPs before. I think one of the issues about elder abuse in general is that they are not the community sentinels that you have comparably for child abuse. Children are going to school, so there may be teachers and so on, whereas with elders there are much fewer opportunities for these things to be noted. Therefore, it is certainly appropriate for us to consider the range of possibilities and to put in place education to alert people to the fact that, well, 10 to 15 per cent of your patients are not straight, and what does that mean; do you have an awareness of that? It is the same across advocacy services as well. They should be aware as well and look at ways that they can make their service more attractive, lower those barriers, by doing explicit work on making their organisations LBGTI inclusive.

The CHAIRMAN: The next term of reference is risk factors, although we have touched on that quite a bit already. In your opening remarks, you indicated your view that the risks are amplified. Are there any further questions on risk factors, members?

Hon ALISON XAMON: Do you think that with the shift in social and generational attitudes towards LGBTQI people we are likely to see a lessening of this particular risk factor in the community or are you thinking that —

Ms LOWE: Not in the short term. I think there is quite a lag. We have seen an entrenched prejudice in the church and in the state and which has pathologised in the medical profession for a very long time; therefore, you always have a lag time between the shifts. You talk to younger people and they scratch their heads and go, "What are you people talking about?" But I think it will be a decade or so before we really see a situation. I notice the difference if I am doing a training in the country, for instance. There is a big difference. The sorts of things that people say, if they said it with race, everybody would gasp, but they are saying things that are actually quite—they make me gasp, although in that situation I have to not gasp. It is still perfectly okay for them to say that in that situation and nobody is challenging them. In a lot of ways it will reduce, I believe, but not instant. We have like a sea anchor of history that slows down the progress, if you like.

Meanwhile, the social isolation, financial insecurity, low social capital and family hostility are right up there, still, and I think they will be, at least for another decade or two, of greater prevalence in the LGBTI community. Financial insecurity and poverty are more likely. They are more likely, in the case of lesbians, because they do not have the benefit of a male wage in their lives. In the case of trans people, it is a very disrupted career path. In the case of gay men—obviously not all, because many have gone on to have stellar careers, as have many lesbians—there is a tendency in general in the past for gay men not to have moved out of the comfort zone because of the risk involved.

Hon ALISON XAMON: Criminalisation.

Ms LOWE: And criminalisation. Justice Kirby came out, but only after it was legal, and his partner pushed him into it! He said that in public, so I am allowed to. Social isolation is a risk factor that will reduce as people are more—one of the reasons there is greater social isolation is there is less family ties and less likelihood to have children. Of course, young people these days are not having children, so that is going down. Some of the risk factors are diminishing, but not all of them, and not quickly.

The CHAIRMAN: Just on the social isolation, you mentioned a couple of reasons with regard to family and children. Is there any research that supports that the social isolation is greater?

Ms LOWE: Yes. Let me just find that.

The CHAIRMAN: Is this in one of the proposed tabled documents?

Ms LOWE: Not in one of the tabled documents. It states —

> LGBTI elders are twice as likely to be single, 2.5 times more likely to live alone and 4 times less likely to have children than the 'general" population and also less likely to have regular contact with their biological families.

That is in the footnotes to my submission, page 9, footnote 15, and that is from Peter Keogh et al, "LGBT matters: The needs and experiences of lesbians, gay men, bisexual and trans men and women in Lambeth". Those figures are quoted extremely widely throughout the literature.

The CHAIRMAN: I want to take to you that. That is footnote 15?

Ms LOWE: Yes.

The CHAIRMAN: So twice as likely to be single. I mean, a person who is single is not necessarily socially isolated.

Ms LOWE: I have a couple of times where people from GPs have called me and said, "We've got somebody here who is at high-risk of social isolation. They do not have contact with their families." Admittedly, families are not always your best friends, but they are still in the heteronorm the most likely source of intergenerational support. As one ages, you are likely to lose connections because you are less likely to be driving, and it is more likely, if you are getting older, that your friends have predeceased you, so your network shrinks anyway. In the case of LGBTI elders, they very often do

not have such a broad a network of people, and they also do not feel able to access mainstream services, such as the senior citizens club or something. People will say, "I'm not going to fit in there. They wouldn't understand me. All they do is talk about their grandchildren. My lifestyle is different. They would not approve of me if they knew who I was." So, there is quite a resistance to accessing the mainstream sources of support that most elders, or a high percentage of elders, feel free to access. So there is that side of it. I think that is really quite significant. It is quite true. If you are a member of Prime Timers, for example, you have got quite a solid group of friends, but, if you are not, you will not. I have started a couple of projects here in Perth for older lesbians. They are people whose networks have shrunk, and they go, "Where are all the people we used to know?", but that tends to happen, and it makes them harder for them not feeling that they can go to mainstream. So that is an increased barrier, I suppose.

The CHAIRMAN: Yes. The reason I ask it is that the committee will have to report to Parliament with findings and recommendations, and if it finds that there is an increased risk of social isolation, that will need to be supported by empirical research. The comment at footnote 15 is that —

> LGBTI elders are twice as likely to be single, 2.5 times more likely to live alone and 4 times less likely to have children than the 'general' population and also less likely to have regular contact with their biological families.

Is that not in and of itself indicative of social isolation.

Ms LOWE: Is not, did you say?

The CHAIRMAN: It is not, because a person could be single and living alone and might not have any children and they might not have regular contact with their biological family and be the most social person on the planet and have a big social network. So we would need something more substantive. I am not asking you to provide that this morning, but it might be something you could consider to take on notice and assist the committee at a later date.

Ms LOWE: It is certainly one of the most widely quoted in various literature as a risk factor for LGBTI elders. One of the projects that GRAI is a little bit on the backburner with due to lack of resources is the social outreach project for just that reason, because the existing services are not really meeting the needs of LGBTI elders. With LGBTI circles, there tends to be a youth bias in—I suppose there is in the world in general, but certainly in gay culture. I have to push the PrideWA committee every year, "Come on, are you thinking about older people here?" So we are trying to run a few projects where we are doing intergenerational work, trying to build up some peer networks, intergenerational LGBTI conversations. I think it is the combined thing. Individually, I hear what you are saying. You could be single and live alone and not have children and be very social. That is interesting. Nobody has pointed that out before because it seems to be taken as a given very widely. I shall examine that further and get back to you.

The CHAIRMAN: Equally, what I am about to say is not empirically supported—this is just my instinctive reaction—but I think as a dad with children, if I did not have children, I would, I suspect, be far more sociable and more social than what I am. But, as I say, I have to hold myself to the same standard I am asking of the witnesses. I will move to the next term of reference, which is to assess and review the legislative policy frameworks. That is probably consistent with what we have just been discussing.

Can you discuss the concept of families of choice and how this interacts with the law surrounding wills in WA? You did talk earlier about interesting stories around funeral arrangements, but any comment that you might have on the law surrounding wills in WA will be of assistance.

Ms LOWE: I will refer you to the paper that I tabled by Elphick and Webb because they go into that in a bit more detail, being from the law school. Families of choice are a much more informal relationship and not widely understood or probably recognised in law. I think various legislatures are moving towards understanding more informal relationships.

Hon MATTHEW SWINBOURN: Can you tell me what family of choice means?

Ms LOWE: A biological family is the family you did not choose. You have got them and they have got you. What happens, especially in an environment where your family really does not want to know you and perhaps you really do not want to them or perhaps you know them on very limited terms, is you go there and you do not take your partner because they do not want to know that you have got that partner. They do not ask you about your life or you do not tell them about your life because they do not want to know and you do not want to know. You have a fairly limited relationship with that family, if at all. Sometimes, if they are outright hostile, you would not have any relationship.

A very important key part of the human condition is the need to belong, so what people in LGBTI communities have done for a very long time is gather around them people who they consider family, and that is what we refer to as family of choice. They can act in the same way as family. Interestingly enough, they often include ex-partners, which is probably unusual in the heterosexual world. Maybe that is because—I do not know; I will not speculate. That is a family of choice. They are standing in for family. There are a range of social supports that you have that are close friends who are considered your family. They may be the people who support you when you are unwell, the people who are your confidants or the people you may live with or not live with. Therefore, when you die, if you have anything to pass on, they are the people, if you had got your act together and had your will, you would have passed on to. As we know, a lot of people do not do wills. This is another question—why that is and what we should do about it. What happens is that family come in and pay no attention at all to people who are different. Let us call them de facto relatives, for want of a better word.

Hon MATTHEW SWINBOURN: Excuse me for interrupting you, do you think the family of choice thing is a product of the legal failure to recognise same-sex relationships as well?

Ms LOWE: It can be partly and broader. A friend of mine—I will call him Philip—has a close friend. His relationship with his friend would not be understood in the hospital because he is not a partner, but he is a close friend; it does not sort of fall within the category that perhaps the hospital would understand. Is he next of kin? Yes, actually.

Hon ALISON XAMON: It is almost a brother-like relationship from what you are describing?

Ms LOWE: Yes and no.

Hon ALISON XAMON: But without being legally the brother.

Ms LOWE: Yes, even though I think, legally, next of kin does not have to be biological kin is my understanding. Increasingly, organisations are changing that language, because when you hear "next of kin", people still believe that means biological family. I know that aged-care providers still feel that they should refer to the biological family rather than the friendships of their client for guidance as to what they should be doing or not doing.

[11.50 am]

Hon ALISON XAMON: Of course, there are ways that that can be reinforced through someone's lifetime. I am thinking about enduring powers of attorney, enduring powers of guardianship, and those sorts of legal measures where you can enshrine that.

Ms LOWE: They can be if people would take that up.

Hon ALISON XAMON: My next question was: you have already said you have concerns about the lack of uptake of wills, so from a government response, what do you think could be done to increase those rates of protection specifically within the LGBTIQ community?

Ms LOWE: I think there is a variety of advocacy and support organisations. OPA, of course, comes to mind. Other organisations need a lot more resources to promote the take-up of wills and powers of attorney. I organised a meeting some years ago with the Public Trustee and OPA and we had an LGBTI audience. It would be good to do that regularly and also to follow up with things like buddying up with somebody to write a will, for example. It is all very well to give people a nice fat file of papers and they go home and put it on the shelf and there it sits. People need assistance with that, and a lot more community education and also looking at other places where people could promote it. The doctor might say it is not his job, the hospital might say it is not their job and the service provider will say that too. Anywhere there is an intersection, it would be useful to have that out there in some way to try to encourage people and to lower the barriers to picking up on that too—a public education campaign, an advertising campaign. Certainly, if you ask people, "Do you think people should have wills?", I think 84 per cent of the people say yes and 20 per cent of people actually have them or some figures like that. It is one of those things; we are all hypocrites.

The CHAIRMAN: With respect to the issue of wills, one of the common phrases that we have come across on this issue of elder abuse is inheritance impatience, particularly describing situations regarding families being in a hurry to access what they perceive is their entitlement. It is a concept that I struggle with; nevertheless, it is clearly prevalent.

Ms LOWE: It is clearly prevalent.

The CHAIRMAN: I invite any comment you might have on that.

Ms LOWE: One research paper I read was that they said the difference between LGBTI people doing wills and the mainstream was that heterosexual people were writing their wills in order to make sure the right members of the family got whatever they wanted them to get and that LGBTI people were writing their wills to make sure that they did not get it.

The CHAIRMAN: Presumably, that is an issue. Irrespective of someone's sexual orientation, my view is that the courts are not necessarily great at adhering to people's express wishes set out in a will, so if you are particularly trying to ensure that family members are not raiding your inheritance, this would be a particular problem, I imagine.

Ms LOWE: It is. Also, one of the stories where somebody was having to leave the house that they had shared for all those years is really a problem because they did not feel secure enough to be prepared to be outed in public. You lose a lot of benefits. They are not able to get the same sorts of benefits that they would have at work with time off. But there is a subject that we call disenfranchised grief too. If your relationship is not recognised, you are not recognised as the widow or widower either, which is an emotional issue, as well as a financial one.

Getting back to wills, because that is straying perhaps, I think the Elphick and Webb paper discusses that in greater detail and probably that is a good one to refer to.

The CHAIRMAN: Members, if you are happy, I will move to the next term of reference, which is (f), which asks the committee to assess and review service delivery and agency responses. Earlier, I think you talked about doing some training sessions, including out in the country and so forth. Do any of those training sessions specifically deal with this issue of elder abuse?

Ms LOWE: In a systemic way, certainly. That training is funded by the federal government—the Department of Health—and it would be good to also at some point get some state government support for similar, perhaps broader, measures here. They are intended to help the providers

comply with the federal legislation under the Aged Care Act where people are required to provide an LGBTI inclusive service, but with the best will in the world do not really know what that means. So we walk through an understanding of what it means to be LGBTI, the impacts of history on somebody, why somebody is not out and what you need to do and how you can be sensitive, and also what an organisation can do in terms of its policies to make itself inclusive and the use of inclusive language that does not exclude people, so you keep your sentences open, the use of gender pronouns, particularly in the case of trans-people, trying to avoid misgendering them, which is humiliating and a great barrier to access. From an elder abuse point of view, we do ask people there to, if you have an opportunity, please encourage people to do wills. We also let them know that the law now expressly prohibits exclusionary services, and any form of discrimination, whether direct or indirect, is now against the law. The onus is on them to actually provide an inclusive service. When we started this work, there were no legal rights at all for LGBTI elders in care, and now there are.

I think the difficulty is how people perceive abuse. The business of intent, I think, is a curious one. Family members or service providers may say things or behave in ways that they do not think are harmful and, in fact, they see their behaviours and their words as perfectly normal and actually feel that they are following social norms, when in fact it is received as abuse by the person. They are the sorts of things we try to point out to people. In Perth, on an average training, you probably have about 80 per cent of the people in the room who are on side and are open and understand what you are talking about. Every now and again, there is somebody in the room who really does not want to know and should not be there. There is enough of that that you know that this is still an issue; there is no question. People do not understand that being lesophobic, transphobic and homophobic is actually a form of abuse.

Hon TJORN SIBMA: At what level is your training provided? Is it provided at the level of practitioners in situ within the confines of a facility or is it done throughout the organisation through its corporate structure down? I am interested, then, where the practice —

Ms LOWE: Who is receiving the knowledge?

Hon TJORN SIBMA: Yes, and where the practices are actually embedded, if at all.

Ms LOWE: We have got different levels of training. The one that is funded by the federal government is paid for, therefore, by them, and people then have free training. There are advantages and disadvantages to that, obviously. As we do not get funding to do a great number of them, when we started, we were doing them in-house so we would go to the various providers. We put it out there and they ordered and we went, so you would have 20 people in the room from one care provider, for example, and there would be a range of people. There might be OTs, there would certainly be front-line care providers, there would be managers and so on. As we have a reduced number with reduced funding, it did not seem fair to do in-house because it would privilege too few people, so with a number of them, we hold them in a central location in Perth and invite people to come. A mixture of people are receiving that.

[12 noon]

We also offer fee-for-service training, and ideally in the room you would have management there, who are taken on board as well. You can get to a situation in which you have a lot of enthusiasm on the ground but no pathways for change. You absolutely need to have the CEOs and the management on board because unless you have people championing the cause at that level, you are not going to get change. Quite often the resistance is at the top. In fact, I have had one CEO say, “Well, we provide a mainstream service and I think that is good enough.” I thought, “Well, that is good enough for you, my friend, but it doesn’t help.”

One-third of care provision in WA, aged-care provision, is provided by faith-based organisations, some of whom are very progressive and have led the campaigns for social equality, and some of whom are far less so, while many of them are ambivalent.

The CHAIRMAN: Is there anything else that you wanted to draw to the attention of the committee this morning?

Ms LOWE: Just as a point of usefulness, I presume that there will be a number of actions or you will have a to-do list that will come out of this committee, I am sure. I am fairly sure I am probably not the only person who has talked about the need for education campaigns. Catherine, in her conversations with elders, one of the things that she came across repeatedly was the fact that people did not identify with the term "elder abuse" and she felt it would be far more useful to consider language such as challenges and difficulties. People are not likely to call it abuse in their own hearts, even though it is, legally. Just a thought: when you are targeting education to people, I am sure people have probably a whole range of creative options about where you could consider education campaigns could be situated; mediation services, obviously, but a whole range of places where we could have community education and service provider education to let people know. In my case, of course, I am talking about LGBTI elder abuse, to let people know that these forms of abuse are actually abuse; they are not acceptable and they are not okay, and what the impacts are. It would be great to have resources available and widespread in the same sorts of places that other educational resources get put.

The CHAIRMAN: Thank you very much. We really want to thank you for attending before us today. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Once again, thank you very much for appearing before the committee.

Ms LOWE: It was an absolute pleasure, thank you. Good luck with all your deliberations.

Hearing concluded at 12.03 pm

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